

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

**REMARKS**

The following remarks and the above amendments are submitted to address all issues in this case, and to put this case in condition for allowance. The claims are amended solely to better define the subject matter of the instant invention and do not add any new matter. After the above amendment, application claims 14, 17, 21-22, 24-25, 27-29, and 31-32 are pending in the application. Application claim 14 is the only independent claim.

Applicant has studied the Office Action Mailed September 20, 2005 and has the following remarks.

**35 U.S.C. §103**

The Examiner has rejected the prior claims in light of the combination of Waters et al (4,344,505) in view of Brush Jr. et al (4,048,926). Dependent claims were further rejected in light of the above combination further in view of Fier (4,302,126), Sciambi et al (4,591,022), Anghinetti et al (3,896,595), Fuller (4,281,743), Porter (5,628,158), and/or Daw et al (4,832,153).

**Waters and Brush Jr.**

Applicant respectfully traverses the rejection of claim 14 on the grounds that no combination of the cited references shows all elements of claim 14 as amended.

Claim 14, as amended, provides an insulating cover for an attic access opening comprising two separable parts: a continuous frame defining an opening and adapted to surround an access opening and a removable closure member which interfaces with the continuous frame to form two generally orthogonal seals. A first seal is inside the opening of the continuous frame, the second seal is outside the opening on the upper surface of the frame. When the two

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

seals are broken, the frame and removable closure member detach allowing the parts to be separated from each other. The cited references fail to show a number of these elements.

In the first instance, no combination of references provides for a device having two seals, one internal to the opening and one external to the opening. The Examiner has admitted that Waters "does not show the closure member being complementary to and snugly seats within the frame to create a first continuous seal. . . the closure member including flange portions. . . for seating against upper surfaces. . . . of the frame to thereby form a second continuous seal with the frame."

The Examiner finds the first missing element in Brush Jr. stating that Brush Jr. has "a closure member having a body portion having a depending central body portion (12) of a size to complementary fit within the frame (41,38)."

The Examiner then asserts that the combination would be both obvious and would provide for both seals. "It would have been obvious. . . to modify Waters to show the closure member being complimentary to and snugly seats with the frame to create a first continuous seal. . . . [The combination also] shows a closure member including flange portions. . . to form a second seal."

This argument first fails to show the creation of the second seal. If Waters shows neither seal and Brush Jr. shows only the first seal, it is impossible for the combination to provide for two seals. As such argument is so clearly suspect, Applicant interprets the Examiner to have misspoken and that the Examiner is intending to assert that Waters shows a device having only the second seal (outside the opening) while Brush Jr. shows a device having only the first seal (a seal internal to the opening).

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

Applicant respectfully traverses, as even if two different seals are shown between the references (one internal to the opening (Brush Jr.) and one external to the opening (Waters)), the combination still fails because neither reference indicates that more than one seal is desirable and, in fact, both references generally indicate that their single seal is sufficient. There is, therefore, no motivation to combine the references. Further, the combination would not work because the openings of the "frames" of Waters and Brush Jr. are of inconsistent shapes meaning the a combination would still only provide a single seal.

If the lid of Brush Jr. was attached to the lid of Waters, the Brush Jr. lid would fail to create the first seal with the inside of the frame opening of Waters because it slants inward, while the frame of Waters is square. If one was to place the Waters lid on the device of Brush Jr., there would be no second seal because the frame of Brush Jr. lacks an upper surface to contact it, the lid of Brush Jr. entirely fills the sealable area.

Even if there was some way to assert that the combination could form two seals, the combination still fails to show the lid and frame being detachable from each other when the seals are broken and the seals being orthogonal to each other.

In the first instance, as mentioned above, the seal of Brush Jr. slants inward and therefore the faces are arranged at four angles relative to its top or bottom. It would therefore be impossible for all four seals of Brush Jr. to be orthogonal with the four co-planar seals of Waters. At least three of the seals would always be non-orthogonal.

Further, the formation of two orthogonal seals using the combination (which is not shown or indicated by the combination), would destroy the functionality of the combination. The device of Waters is designed to be hinged. As has been repeatedly pointed out to the Examiner, a hinged lid would prevent an internal seal from being broken as rotational movement of the lid

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

would not allow the first seal to break. Instead, the face of the recessed portion opposing the hinges would be driven into the wall portion of the frame with which it seals, and the lid would not open at all.

Even if all the above were considered obvious (and none of them are), the combined hinged lid still does not detach from the frame when the seals are broken. The Examiner stated in the prior Office Action that Applicant's choice of the word "independent" to show the pieces was insufficient to show to separate pieces. Without admission as to the correctness of that rejection, applicants have instead chosen to indicate that the two pieces detach when the seals are broken. This clearly and unambiguously indicates that the pieces are separable, which is clearly not shown by a hinged connection.

**Conclusion**

In light of the above remarks, Applicant believes there are no further issues regarding the patentability of the pending claims and respectfully requests the Examiner withdraw his rejections and allow all pending claims so that this case can pass on to issue.

Applicant believes no additional fees are due in conjunction with this filing, however, the Commissioner is authorized to credit any overpayment or charge any deficiencies necessary for entering this amendment, including any claims fees and/or extension fees to/from our **Deposit Account No. 50-0975**.

If any questions remain, Applicant respectfully requests a telephone call to the below-signed attorney at (314) 444-7783.

Respectfully submitted,  
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DRAFT

Dated: \_\_\_\_\_ 2005

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

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